appetite and in protecting the body from nerve disorder," and "Indicated in certain cases of retarded growth, constipation, migraine headaches, and helpful promotion of greater vigor, functional digestion and wholesomeness of the skin," were false and misleading in that they represented that the article was valuable as an aid in promoting appetite and protecting the body from nerve disorder, and was of value in retarded growth, constipation, and migraine headaches, and in promoting greater vigor, functional digestion, and wholesomeness of the skin, whereas it would not be efficacious for such purposes.

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to food reported in notices of judgment on foods.

On January 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**879. Adulteration and misbranding of Vi-Penta drops. U. S. v. Hoffman-La Roche, Inc. Plea of nolo contendere. Fine, $250 on count 1. Imposition of sentence suspended on remaining 15 counts.** (F. D. C. No. 7656. Sample Nos. 56804–E, 69145–E, 74168–E, 89116–E.)

On September 4, 1942, the United States attorney for the District of New Jersey filed an information against Hoffman-La Roche, Inc., Nutley, N. J., alleging shipment of Vi-Penta drops within the period from on or about March 18, 1941, to January 15, 1942, from the State of New Jersey into the State of New York. The article was labeled in part: "Each 0.6 cc. (approximately 10 minims) equals 1 Vi-Penta Perle and contains Vitamins: A . . . 9,000 (or "4,000") U. S. P. Units."

Examination of samples taken from each of the 3 shipments labeled as containing 9,000 U. S. P. Units of Vitamin A per 0.6 cc. showed the presence of not more than 2,700, 4,500 and 4,500 U. S. P. Units of Vitamin A, respectively, per 0.6 cc. The shipment labeled as containing 4,000 U. S. P. Units of Vitamin A per 0.6 cc. contained not more than 2,000 Units of Vitamin A per 0.6 cc.

Portions of the article were alleged to be misbranded in that the statements in the labeling which represented and suggested that it was efficacious to bring about normal growth and development of infants and children; that it was efficacious in the cure, mitigation, treatment, or prevention of malnutrition, lowered resistance, and rundown states, and for use during prolonged illnesses such as infections, anemias, tuberculosis, and typhoid; that it was efficacious in the treatment of gastro-intestinal conditions such as diarrhea and colitis, and for use when restrictions in diet become necessary, as in obesity, diabetes, and catarrhal jaundice, and whenever the total food intake must be increased as in hyperthyroid conditions; that it was efficacious in the cure, mitigation, treatment, or prevention of skin diseases such as eczema, for certain allergic conditions such as those due to milk, eggs, and wheat, and for temporary or persistent vomiting, especially during infancy, childhood, and pregnancy; and that it was efficacious as a prophylaxis or treatment of abnormal dentition, or gum and tooth conditions were false and misleading since the article was not efficacious for the conditions indicated.

All shipments of the article were alleged to be adulterated and misbranded in that its strength differed from and its quality fell below that which it purported and was represented to possess, and the labeling was false and misleading since it was represented to contain 9,000 (or 4,000) U. S. P. units of vitamin A per 0.6 cc., whereas it contained in each 0.6 cc. less than the declared amount of vitamin A.

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

On November 6, 1942, a plea of nolo contendere having been entered, a fine of $250 was imposed on the first count of the information and imposition of sentence was suspended on the remaining 15 counts.

**880. Misbranding of prophylactics. U. S. v. 41 Gross of Midgets. Default decree of condemnation. Product ordered destroyed.** (F. D. C. No. 7985. Sample No. 16834–F.)

This product purported to be a prophylactic, but would not be effective for such purpose because it contained holes.

On July 25, 1942, the United States attorney for the Southern District of New York filed a libel against 41 gross of an article labeled in part: "Midgets the Short Cap Type Sheath," at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about July 10, 1942, by the Rubber Research Products Corporation from Jersey City, N. J.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that its quality fell below that which it purported and was represented to possess, since it contained holes and was not suitable for use as a prophylactic.

It was alleged to be misbranded in that the following statements in the labeling, "Notice: The enclosed sheath has been 'Water Tested' by expanding, under water pressure, to at least ten times its normal capacity—then examined closely for any detectable leak," were false and misleading, since such statements represented and suggested that the article was free from defect, whereas it was not.

On August 24, 1942, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be cut up and disposed of as scrap rubber.

**881. Adulteration and misbranding of collodion. U. S. v. 1,476 Bottles, 6,000 Bottles, and 2,738 Bottles of Collodion U. S. P. Default decrees of condemnation. Portions of product ordered destroyed; remainder (2,738 bottles) ordered delivered to the Food and Drug Administration.** (F. D. C. Nos. 8043, 8076, 8270. Sample Nos. 5255–F, 6202–F, 9339–F.)

On August 1, 10, and 28, 1942, the United States attorneys for the Eastern District of Missouri, the Southern District of Ohio, and the Western District of Texas filed libels against 1,476 bottles of collodion at St. Louis, Mo., 6,000 bottles of collodion at Columbus, Ohio, and 2,738 bottles of collodion at San Antonio, Tex., alleging that the article had been shipped in interstate commerce within the period from June 11 to July 18, 1942, by the Conray Products Co., Inc., from New York, N. Y.; and charging that it was adulterated and misbranded. The article was labeled in part: "Collodion U. S. P.," or "Conray 1 oz. Collodion U. S. P."

The article was alleged to be adulterated in that a mixture containing an ester such as amyl acetate had been substituted for collodion U. S. P.

It was alleged to be misbranded in that the statement "Collodion U. S. P." was false and misleading since it did not have the composition specified by the United States Pharmacopoeia for collodion.

On November 19 and December 24, 1942, no claimant having appeared, judgment of condemnation was entered and 7,476 bottles of the product were ordered destroyed. On October 23, 1942, no claimant having appeared, the court ordered that a default decree of condemnation be entered and the lot located at San Antonio, Tex., delivered to the Food and Drug Administration.

**882. Adulteration of cocoa butter. U. S. v. 35 Dozen Packages of Miami Cocoa Butter. Default decree of condemnation. Product ordered rendered for use in war purposes.** (F. D. C. No. 8172. Sample No. 4721–F.)

On August 20, 1942, the United States attorney for the Southern District of Ohio filed a libel against 35 dozen packages of Miami cocoa butter at Cincinnati, Ohio, which had been shipped in interstate commerce on or about August 4, 1942, alleging that the article had been shipped by Hampden Sales Association, Inc., from New York, N. Y.; and charging that it was adulterated.

Analysis of a sample showed that it contained approximately 44 percent of some material other than cocoa butter, such as paraffin or petrolatum.

The article was alleged to be adulterated in that a substance other than cocoa butter, i. e. paraffin and petrolatum, had been substituted in part for the article, and had been mixed and packed therewith so as to reduce its quality.

On November 18, 1942, no claimant having appeared, judgment of condemnation was entered and it was ordered that the cocoa butter be delivered to a rendering firm for recovering the fats and oils for war purposes.

## DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS*

### HUMAN USE

**883. Action to restrain interstate shipment of a misbranded device known as "Magnetic Ray Appliance" and "Magnetic Ray Instrument". U. S. v. Frank B. Moran (Magnetic Ray Co.). Permanent injunction granted.** (Inj. No. 19.)

This device consisted of an electric appliance which would produce a magnetic field. It was accompanied by labeling which recommended its application to various parts of the body and represented that it would be of value in the

*See also Nos. 851–856, incl., 860–868, incl., 871–881, incl.